IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

WP(C).No. 27575 of 2007(G)

PETITIONER:

**M.K.SUGUNA, AGED 50 YEARS,
D/O.RANGASWAMY CHETTIAR, AZHAKAPADATH HOUSE,
NEW NO.10/270, KIZHAKETHARA, NEAR A.M.M. UPPER
PRIMARY SCHOOL, VADAVANNUR - 678 504, PALAKKAD
DISTRICT.**

BY ADV. SRI.M.K.SUGUNA (PARTY-IN-PERSON)

RESPONDENTS:

1. **THE DISTRICT COLLECTOR, CIVIL STATION,
COMPOUND, PALAKKAD DISTRICT.**
2. **GOVERNMENT OF KERALA,
REPRESENTED BY SECRETARY,
LAND AND REVENUE DEPARTMENT,
THIRUVANANTHAPURAM.**
3. **THE PALAKKAD LAND TRIBUNAL.**
4. **(KALADHARAN), TAHSILDAR,
CHITTUR VILLAGE, CHITTUR,
PALAKKAD DISTRICT.**
5. **GIRIJA MARY, THE VILLAGE OFFICER,
CHITTUR, PALAKKAD DISTRICT.**
6. **RAMACHANDRAN, DISTRICT REGISTRAR,
CIVIL STATION COMPOUND, PALAKKAD.**
7. **P.BALACHANDRAN, SUB REGISTRAR, CHITTUR,
PALAKKAD DISTRICT.**

8. VICTOR, SUB REGISTRAR, KOZHINJAMPARA,
PALAKKAD DISTRICT.

9. R.I P.S.JOHNES, THE CHITTUR MUNICIPALITY
CHITTUR, PALAKKAD DISTRICT.

10. MOHAN, ASSISTANT ENGINEER,
CHITTUR ELECTRICITY BOARD,
PALAKKAD DISTRICT.

11. ASHOK KUMAR, DEPUTY COLLECTOR,
PALAKKAD LAND TRIBUNAL, COLLECTORATE,
PALAKKAD DISTRICT.

12. SELVARAJ, SPECIAL TAHSILDAR,
PALAKKAD LAND TRIBUNAL,
PALAKKAD DISTRICT.

13. RAMAKRISHNAN (ABKARI) AT PANNIPERUNTHALA
KUTTRIPALLAM P.O., CHITTUR, PALAKKAD
DISTRICT.

14. SELVARAJ (SALES TAX OFFICER) TELUGU
STREET, CHITTUR, PALAKKAD DIST.

15. COUNCILLOR KRISHNASWAMY FOR III RD
WARD TELUGU STREET, CHITTUR , PALAKKAD DISTRICT

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON 30/10/2007 DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 27575 OF 2007 G

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Dated this the 30th October, 2007

J U D G M E N T

The prayer in this writ petition is to direct the 1st and 2nd respondents to issue copy of Patta No. 1367/75, copy of O.A.No. 50/79, 1665/76 and Non-Encumbrance Certificate. Petitioner claims ownership of certain properties and asserting her rights over the said properties and also a building, she had made complaints to various authorities including the President of India and the Chief Minister of the State, which were forwarded to the District Collector, Palakkad who issued Ext. P23. By this letter petitioner was informed that as she did not produce any document in support of her claims in the enquiry held by the Collector, she could take recourse to proceedings before a civil court for establishing her right. It is on receipt of this communication that this writ petition was filed with the prayers mentioned above.

2. When the petitioner appeared in this Court as party in person, this Court directed the 1st respondent

District Collector to file a statement and accordingly a statement on his behalf was filed by the learned Govt. Pleader and a copy thereof was served on the petitioner on 5-10-2007.

3. In so far as patta No. 1367/75 claimed by the petitioner is concerned, it is averred in the statement filed on behalf of the 1st respondent that though she had applied for the patta, on verification of the records in connection with SM No. 1367/75, it was found that this pertains to one Kadukunny Nair Manjalloor P.O. and also Kolothu Parambil Kunjayamma, Amayoor P.O., Pattambi. The 1st respondent would state that the properties in these cases did not belong to the petitioner or her predecessors and the petitioner was totally unconnected with these cases. Petitioner has not produced any document in this proceedings to prove that she has any connection with the cases referred to above or that she is entitled to the properties which are the subject matter of these proceedings. If that be so, on the material available, it is not possible for this Court to find the statement to be incorrect for any reason.

4. In so far as copy of O.A. 50/79 and 1665/76,

are concerned, going by the writ petition these pertain to the properties claimed by the petitioner in various survey numbers in Oahalapally Village, Velanthavalam P.O., Palakkad District. It is stated by the 1st respondent that the Tahsildar, Chittur after an enquiry had reported that the lands involved have already been disposed to various persons by Shri. Rengaswamy Chettiar and Smt. Krishnammal, the parents of the petitioner, as per document Nos. 1084/85, 1085/85, 1086/85 and 1087/85 of the office of the Sub Registrar, Chittur. It is also stated that another extent of 12 cents of land in survey No. 1029/3 was also disposed of by her parents and that as the mutation has not been carried out, the names of the previous owners continue to be denoted in the revenue records and it is on that basis the claim has been raised.

5. In so far as this prayer of the petitioner is concerned also, with the available materials, this Court will not be justified in granting the relief. While the petitioner claims ownership over the properties in question the respondents would state that the properties have already been disposed of, that it is only on the basis that revenue records denoted the

name of her parents that she is staking a claim in respect of the properties. Thus, according to the respondents, the land does not belong to the petitioner. Petitioner has not produced any document to accept her claim to the contrary. In any case, what arises is essentially a dispute of title in respect of an immovable property. For establishing the right, parties are required to produce title deeds, adduce evidence and prove their case. This cannot be done in proceedings under Article 226 of the Constitution.

6. It was irrespective of all these that following receipt of the representations made by the petitioner to various authorities that the 1st respondent had conducted an enquiry into the complaints of the petitioner. On that occasion also petitioner could not produce documents to sustain her claim. Though she has made several allegations I have no reason to think that the District Collector has any reason to not impartial or, to be prejudicial to the case of the petitioner, if she has a genuine grievance. On the materials available I cannot say that the District Collector has exercised his powers in an arbitrary manner. In my view, in view of the failure of the petitioner to

sustain her claim by producing documents the District Collector could only do what he has done in Ext.P23.

7. Be that as it may, even now if the petitioner has documents to sustain her claim, the 1st respondent shall examine the same and pass orders to redress her grievances. However, the burden of establishing here case will be entirely on the petitioner and it is not for the authorities to search for her title and prove her case.

8. I do not find any justification for granting the relief sought for by the petitioner. But, however, I clarify that if the petitioner is able to sustain her claim by producing documentary evidence, she may still approach the 1st respondent in which event the 1st respondent will consider her case and pass orders to remedy her grievances.

9. Writ petition is disposed of as above.

Since the petitioner appeared in person, the Registry will forward a copy of this judgment in her address in the writ petition.

ANTONY DOMINIC
JUDGE

jan/-